

Message Text

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ACTION IO-10

INFO OCT-01 ISO-00 AF-04 ARA-06 EA-06 EUR-12 NEA-06 RSC-01

CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00

PM-03 H-01 INR-05 L-02 NSC-05 PA-01 PRS-01 SP-02

SS-15 AID-05 EB-07 CIEP-01 TRSE-00 STR-01 OMB-01

CEA-01 COME-00 /097 W

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TO SECSTATE WASHDC 7888

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E. O. 11652: N/A

TAGS: EFIN, UNGA, ECOSOC

SUBJ: INTERSESSIONAL COMMITTEE ON TRANSNATIONAL CORPORATIONS
(TNCS)

1. SUMMARY: TWO INFORMAL MEETINGS OF THE SPECIAL INTERSESSIONAL COMMITTEE ON TRANSNATIONAL CORPORATIONS HELD MONDAY, NOVEMBER 25 USING REVISED DRAFT OF YUGOSLAVIA ET AL, TEXT OF WHICH LEFT WITH EB/IFD/OIA. DEPARTMENT'S GUIDANCE REQUESTED ON SEVERAL KEY POINTS IN TIME FOR NEXT FORMAL MEETING NOW SECUEDULED FOR 10:30 A.M. THURSDAY, NOVEMBER 28. END SUMMARY:

2. THERE IS GENERAL AGREEMENT ON PREAMBULAR LANGUAGE OF REVISED DRAFT AS IT NOW STANDS.

3. OP - PARA 1. THERE IS GENERAL AGREEMENT ON THE CAPUT. ON PARA 1(A) , HOWEVER, TWO IMPORTANT ISSUES REMAIN UNRESOLVED. FIRST, IS SIZE OF COMMISSION AND GEOGRAPHICAL DISTRIBUTION OF MEMBER STATES. GENERAL FEELING AMONG WESTERN DELEGATIONS IS THAT TNC COMMISSION MUST INCLUEDEM MINIMUM OF EIGHT OR NINE WEO'S ASSUMING JAPAN COUNTED IN ASIAN

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GROUP. US, UK, FRANCE, FRG, THE NETHERLANDS, SWEDEN,

CANADA AND AUSTRALIA CLEARLY INTERESTED IN MEMBERSHIP AND HAVE BEEN ACTIVE IN DEBATE. GIVEN FREQUENCY OF INTERVENTION BY ITALIAN AND SPANISH DELEGATIONS, WE CONCLUDE THAT BOTH THESE GOVERNMENTS WILL ACTIVELY SEEK REPRESENTATION ON COMMISSION AS WELL. SUCH WEO MEMBERSHIP CONSISTENT WITH COMMISSION MEMBERSHIP OF ABOUT 36 AND US DEL SUPPORTED OTHER WEO'S IN SUGGESTING COMMISSION OF THIS SIZE. CO-SPONSORS LED BY INDIA AND YUGOSLAVIA WANT TO LIMIT SIZE OF COMMISSION WHICH THEY BELIEVE BECOMING UNWEIDLY. THIS MATTER WAS LEFT FOR FURTHER DISCUSSION.

4. SECOND MAJOR ISSUE ON PARA 1(A) IS UNIVERSE FROM WHICH MEMBER STATES SHOULD BE CHOSEN. FIRST BRACKETED ALTERNATIVE, "...OF THE UN, THE SPECIALIZED AGENCIES, AND THE IAEA..." (THE SO-CALLED VIENNA FORMULA) WOULD BE ACCEPTABLE TO WEO'S BUT HAS BEEN CATEGORICALLY REJECTED BY USSR. THE SECOND ALTERNATIVE, "...OF ---MEMBERS FROM ALL STATES..." PLUS EXPLANATORY FOOTNOTE WAS ORIGINALLY PUT FORWARD BY CANADAM WHILE US HAS ACCEPTED SIMILAR LANGUAGE IN EXTENSION OF INVITATIONS TO PARTICIPATE IN INTERNATIONAL CONFERENCES UNDER UN AUSPICES, IT WOULD BE A PRECEDENT TO USE THIS FORMULATION FOR CONSTITUTING A PERMANENT SUBSIDIARY UN BODY. THIS FACT RATHER BELATEDLY RECOGNIZED DURING MORNING DEBATE. SOVIETS THEREUPON SUGGESTED FORMULA USED FOR ESTABLISHMENT OF UNITED NATIONS ENVIRONMENTAL PROGRAM GOVERNING COUNCIL: "...OF ---MEMBERS ELECTED BY THE GENERAL ASSEMBLY" (US DEL ASSUMES SOVIETS MEAN TO SUBSTITUTE ECONOMIC AND SOCIAL COUNCIL FOR UN GENERAL ASSEMBLY). US DEL WILL PROPOSE THE FOLLOWING FORMULA WHICH WHILE FINALLY NOT USED WAS FOUND TO BE GENERALLY ACCEPTABLE IN ROME FOR ESTABLISHMENT OF WORLD FOOD COUNCIL AND PREVIOUSLY OF POPULATION COUNCIL: "...OF MEMBER STATES ELECTED BY THE ECONOMIC AND SOCIAL COUNCIL IN ACCORDANCE WITH THE USUAL PRACTICE OF THE GENERAL ASSEMBLY."

5. PARA 1(B) ONLY SOVIET DEL RAISED SUBSTANTIVE PROBLEM ON THIS SUB-PARA. WHILE NOTING THAT FORMULATION WAS PERMISSIVE ("MAY CONSULT"), SOVIET DEL SAID HIS GOVERNMENT WOULD NOT CONSULT WITH PRESIDENT OF ECOSOC ABOUT COMPOSITION OF ITS DELEGATION IF IT WERE CHOSEN TO KEEP ON COMMISSION.

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6. THERE WAS GENERAL AGREEMENT ON PARA 1(C)

7. PARA 1(D) . THERE WAS EXTENDED DISCUSSION ON THIS POINT WITH MOST WEO'S INCLUDING US DEL, URGING DELETION OF PHRASES "WHEN IT DEEMS IT NECESSARY." THIS FORMULATION STRONGLY RESISTED BY BRAZIL AND TO SOME LESSER EXTENT BY CO-SPONSORS. FRENCH DEL PROPOSED FOLLOWING COMPROMISE TEXT: " THE COMMISSION SHALL APPOINT AS REQUIRED BY ITS PROGRAM OF WORK..."

US AND OTHER WEO'S SUPPORTED THIS CHANGE BUT CO-SPONSORS SAID THEY WOULD HAVE TO TAKE MATTER UNDER FURTHER CONSIDERATION. ITS WAS AGREED TO SUBSTITUTE THE WORD "DISCUSSIONS" FOR "DELIBERATIONS" IN LAST LINE PARA 1(D).

8. PARA 2. AGREEMENT REACHED ON THIS PARA WITH ADDITION OF FINAL PHRASE"...UNLESS COUNCIL DECIDES OTHERWISE."

9. PARA 3. THERE IS GENERAL AGREEMENT ON CAPUT AND ON SUB-RARAA. PROBLEMS AROSE ON SUB-PARA B FOR USSR AND SOME WEO'S BUT FOR OPPOSITE REASONS. USSR WANTED OMISSION OF REFERENCE TO " STATE ENTERPRISES" AND SUGGESTED ADAPTATION OF LANGUAGE FROM PARA 1(D) FOR THIS SUB-PARA: "...INCLUDING TRADE UNIONS BUSINESS, PUBLIC INTEREST GROUPS, UNIVERSITIES AND OTHER RELEVANT GROUPS." US DEL, SUPPORTED BY ITALY AND UK, POINTED OUT WHILE INCLUSION OF STATE ENTERPRISES IN COMMISSION'S WORK WAS VERY RELEVANT, PRESENT WORDING HAD EFFECT OF DEFINING TNC'S TO EXCLUDE STATE ENTERPRISES. SINCE CONSIDERATION OF TNC DEFINITION IS AMONG PRIORITIES FOR COMMISSION'S WORK PROGRAM OUTLINED IN PARA 7, IT WAS ARGUED THAT THE QUESTION SHOULD NOT BE PREJUDGED HERE. COSPONSORS INDICATED THEY WOULD GIVE MATTER FURTHER CONSIDERATION. US DEL BELIEVES THAT SOVIET PROPOSAL WOULD BE ACCEPTABLE AS LONG AS WE MAKE STATEMENT THAT IT IS OUR UNDERSTANDING THAT PHRASE BEGINNING "INCLUDING" APPLIES TO WHOLE SUB-PARA AND NOT REPEAT NOT ONLY TO "NON-GOVERMENTAL ORGANIZATIONS. "

10. PARA 3(C) WAS AGREED TO WITH ADDITON OF WORD "INTERESTED" BEFORE WORD "GOVERNMENTS". PARA 3(D) WAS AGREED TO WITHOUT CHANGE.

11. PARA 3(E) ON CONDE OF CONDUCT REMAINS UNRESOLVED. TWO POINTS AT ISSUE HERE ARE THE PREPOSTION TO BE USED LIMITED OFFICIAL USE

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AFTER "A CODE OF CONDUCT AND FINAL PHRASE BEGINNING "WITH A VIEW TO PROTECTING..." CANADIAN DEL PROPOSED SUBSTITUTION OF WORD "CONCERNING" IN PLACE OF "FOR." US DEL SUPPORTED THIS AND URGED DELETION OF FINAL PHRASE SINCE IT LIMITED PURPOSE OF CODE. BRAZILIAN SUPPORTED BY SOVIET AND ARGENTINE DELS STRONGLY DEFENDED INCLUSION OF FINAL PHRASE AND SUGGESTED SUBSTITUTING "TO BE OBSERVED BY" IN PLACE OF "FOR". INDIA AND PAKISTAN DELS INSISTED THAT "FOR" WAS NEUTRAL, COMPROMISE LANGUAGE. THIS INTERPRETATION NOT ACCEPTED BY EWO'S. AUSTRALIAN DEL SUGGESTED "ON" WHICH US DEL ALSO FINDS ACCEPTABLE.

12. FRENCH, SWEDISH , AND WEST GERMAN DELS OFFERED FOLLOWING POSSIBLE ALTERNATIVES FOR FINAL PHRASE OF PARA 3(E) :
(I) " ..TAKING INTO ACCOUNT ALL THE INTEREST INVOLVED,

PARTICULARLY THOSE OF DEVELOPING NATIONS."

(II) ADDITION OF WORDS "AND HOME" AFTER "HOST".

(III) ADDITION OF WORDS "INTER ALIA" AFTER " WITH A VIEW"

US DEL WOULD PREFER (I) OR (II) ABOVE BUT BELIEVES WE COULD
ALSO ACCEPT (III) .

13. PARA 3(F) FRAZILAIN DEL, WHILE AGREEMING THAT IT
PREMATURE TO BEGIN WORK ON A "GENERAL AGREEMENT" FELT PRESENT
LANGUAGE LIMITED MANDATE OF COMMISSION TO STUDYING
FEASITILITY OF A GENERAL AGREEMENT, EVEN FOR THE FUTURE.

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INDIAN DEL SAID THAT THIS WAS UNINTENSIONAL AND SUGGESTED FOLLOWING
REFORMULATION; "...FEASIBILITY OF , AND IF FOUND FEASIBLE
ON THE BASIS OF A DECISION OF THE COUNCIL, TO CONSOLIDATING THEM
INTO A GENERAL AGREEMENT AT A LATER DATE." WEO'S ARGUED THAT
INDIA FORMULATION WAS SUPERFLUOUS SINCE COMMISSION WAS TO
REPORT TO THE COUNCIL IN MANY CASE. JAPNEE DEL
SUGGESTED ADDION OF "AND DESIRABILITY" AFTER "FEASIBILITY"
IN PRESENT TEXT. WHILE WE WOULD PREFER PRESENT TEXT WITH
JAPANESE ADDITION, US DEL INCLINED TO ACQUIESCE IN INDIAN
PROPOSAL UNDERTAKING ANY ACTUAL WORK ON A GENERAL AGREEMENT.

14. PARA 3(G) WAS AGEED TO WITHOUT CHANGE.

15. PARAS 4 THROUGH 7 NOT DISCUSSED AT MONDAY MEETING.
BRAZILIAN DEL, HOWEVER, SUGGESTED FOLLOWING AMENDMENT TO PARA 4(B);
"..BY GATHERING INFORMATION MADE AVAILABLE BY GOVERNMENTS AND ALL
OTHER RELEVANT SOURCES. " US DEL FINDS BRAZILIAN SUGGESTION
AN IMPROVEMENT. WE INTEND TO TRY FOR DELETION THE
WORD "SYSTEM" IN THIS SUB-PARA BUT ARE NOT OPTIMISTIC
ON THIS POINT.

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16. PARA 7. FOLLOWING REVISED TEXT DISTRIBUTED BY
COSPONSORS MONDAY A.M. :
REVISED TEXT OF PARA 7

7. REQUESTS THE COMMISSION ON TRANSNATIONAL CORPORATIONS,
IN FULFILLMENT OF PARAGRAPH 8 OF ECONOMIC AND SOCIAL
COUNCIL RESOLUTION 1908 (LVII) , TO SUBMIT TO THE
ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTIETH SESSION, A
DETAINED DRAFT PROGRAMME OF WORK ON THE FULL RANGE
OF ISSUES RELATING TO TRANSNATIONAL CORPORATIONS,
INCLUDING, WITHIN THE FRAMEWORK OF THE FOLLOWING
GUIDELINES, A STATEMENT OF ITS PROPOSED PRIORITIES;
THE DEVELOPMENT OF A COMPREHENSIVE INFORMATION
SYSTEM: PRELIMINARY WORK WITH THE OBJECTIVE OF
FORMULATING A CODE OF CONDUCT, THE UNDERTAKING OF STUDIES,
ESPECIALLY CASE STUDIES, ON THE POLITICAL, ECONOMIC
AND SOCIAL IMPACT OF THE OPERATIONS AND PRACTICE OF
TRANSNATIONAL CORPORATIONS WHICH SEEM MOST URGENT,
AND DEFINITION OF TRANSNATIONAL CORPORATIONS WHICH SEEM MOST URGENT,
AND THE DEFINITION OF TRANSNATIONAL CORPORATIONS.
THE DRAFT PROGRAMME SHOULD BE WITHOUT PREJUDICE
TO THE WORK UNDERTAKEN WITHIN THE UNITED NATIONS SYSTEM
IN RELATED FIELDS.

17. US DEL BELIEVES THAT THIS TEXT IS MARKED IMPROVEMENT
AND IS NOW ACCEPTABLE.

16. ACTION REQUESTED. DEPARTMENTS GUIDANCE PARTICULARLY
ON PARA 1(A) AND 1(D) , PARA 3(B) AND 3(E) PARA 4(B) AND
PARA 7 IS REQUESTED IN TIME FOR THURSDAY SESSION.
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